

May 18, 2015

The Honorable Brett Guthrie  
2434 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Tony Cárdenas  
1510 Longworth House Office Building  
Washington, D.C. 20515

Dear Representatives Guthrie and Cárdenas :

On behalf of the membership of the National Association of Insurance Commissioners<sup>1</sup>, we write today to offer our support and appreciation for the Protecting Affordable Coverage for Employees Act (H.R. 1624/S. 1099). The flexibility afforded to states in this legislation will help ensure stable small group health insurance markets that reflect the unique characteristics and dynamics at play in each of our states. As you know, section 1304(b) of the Patient Protection and Affordable Care Act (ACA) changes the definition of the small group market to include all employers with 1-100 employees. The states, however, are allowed to continue defining the small group market as employers with 1-50 employees until January 1, 2016. Beginning on or after this date, plans sold or renewed for employers with 51-100 employees will be subject to the various small group health plan regulations established by the ACA, such as essential health benefits, rating pools, actuarial value requirements, adjusted community rating rules, medical loss ratio requirements, and others.

The U.S. Department of Health and Human Services has offered a transition option by publishing guidance that they will not enforce certain small group market regulations for existing health plans provided by employers with 51-100 employees if the plan is renewed on or before October 1, 2016, effectively staving off the new regulations until October 1, 2017. The NAIC surveyed the 50 states and the District of Columbia, and most responded they will be utilizing this transition option. Nevertheless, we believe a more comprehensive fix provided by this legislation is necessary.

The NAIC shares your concern that changing the definition of the small group market nationwide to include all employers with 51-100 employees could adversely affect consumers and small business owners. Some employers will lose their current coverage; some will have fewer coverage options; and some will have their health insurance costs increase. The impact will vary by state, which is why defining the small group market should be left to the states.

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<sup>1</sup> Founded in 1871, the NAIC is the U.S. standard-setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia and the five U.S. territories. Through the NAIC, state insurance regulators establish standards and best practices, conduct peer review, and coordinate their regulatory oversight. NAIC members, together with the central resources of the NAIC, form the national system of state-based insurance regulation in the U.S.

With this flexibility in mind, we must note the NAIC is concerned with the limitations imposed on the States in Section 2(b)(7) of this legislation by only allowing them to extend the definition of the small group market to employers with 51-100 employees, as opposed to any number they deem appropriate for their market. We would ask you to consider this additional flexibility, but recognize that even as drafted this legislation represents a significant and important improvement over current law. Thank you again for your leadership on this issue, and we look forward to working with you as this bill moves through the legislative process.

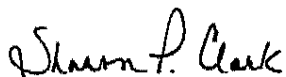
Sincerely,



Monica J. Lindeen  
NAIC President  
Commissioner  
Montana Office of the Commissioner of Securities  
and Insurance, State Auditor



John M. Huff  
NAIC President-Elect  
Director  
Missouri Department of Insurance, Financial  
Institutions and Professional Registration



Sharon P. Clark  
NAIC Vice President  
Commissioner  
Kentucky Department of Insurance



Ted Nickel  
NAIC Secretary-Treasurer  
Commissioner  
Wisconsin Office of the Commissioner of  
Insurance



Senator E. Benjamin Nelson  
NAIC Chief Executive Officer